SCS Agency
Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author: Morrissey | Analyst: Paul Brainin | Bill Number: AB 2092

Related Bills: none | Telephone: 845-3380 | Introduced Date: 02-18-98

Attorney: Doug Bramhall | Sponsor: See Analysis

SUBJECT: Child Care Deduction

SUMMARY

This bill would add to the Personal Income Tax Law (PITL) a deduction for the amount paid or incurred by a taxpayer for the costs of child care.

EFFECTIVE DATE

This bill would apply to taxable years beginning on or after January 1, 1999.

SPECIFIC FINDINGS

Current federal law does not allow a deduction for child care expenses. **Federal law** does allow as a credit against tax an amount equal to a percentage of the child and dependent care expenses necessary to be gainfully employed. The terms "qualified individual" and "employment-related expenses" are defined. The amount of qualifying expenses for the credit is limited to $2,400 for one dependent ($4,800 for two or more), and the percentage ranges from 20% to 30%. Other special rules are provided.

Current state law conforms to federal law relating to the allowance of deductions, except where otherwise provided. Current **state law** does not allow a credit similar to the federal child care credit.

Under the PITL, **this bill** would add a deduction for the amount paid or incurred for the costs of child care for one or more children.

Policy Considerations

As mentioned, there is a federal credit for a percentage of the amount of the child care costs necessary to permit employment of the taxpayer. This credit would be for the costs of any child care.

Under current law, an employee may exclude up to $5,000 paid or incurred by the employer for dependent care assistance provided to the employee under a

DEPARTMENTS THAT MAY BE AFFECTED:

____ STATE MANDATE ____ GOVERNOR'S APPOINTMENT

Board Position:	Agency Secretary Position:	GOVERNOR'S OFFICE USE
____ S ____ O ____ SA ____ OUA ____ N ____ NP ____ NA ____ NAR ____X____ PENDING	____ S ____ O ____ SA ____ OUA ____ N ____ NP ____ NA ____ NAR DEFER TO ____________	Position Approved ____ Position Disapproved ____ Position Noted ____
Department Director Date G. Alan Hunter 3/24/98	Agency Secretary Date	By: Date

"cafeteria plan" if the assistance meets certain requirements. While the federal credit is reduced by the amount of dependent care assistance, this bill would provide taxpayers with a double benefit because the amount excluded from taxable income for dependent care assistance could again be deducted as the costs of child care.

This bill does not limit the amount of the deduction, nor does the bill require the taxpayer to be gainfully employed to take the deduction, like the federal credit for child care expenses.

Implementation Considerations

Since there is no federal deduction for child care expenses, this bill would require a separate itemized deduction on the return to be made due to differences in federal and state law. This may complicate the preparation of tax returns.

This bill does not define child care or child care expenses, which may lead to broad interpretations and disputes between taxpayers and the department.

This bill does not define "children of the taxpayer;" therefore, it is unclear whether foster children, adopted children, and children who are dependents (but not biological children of the taxpayers) may be included.

This bill does not provide rules regarding parents who file separate returns or for parents who share custody of the children.

This bill would cause forms and instructions revisions that could be accomplished during the normal forms update cycle. However, it would be very difficult to write instructions without further definitions of the terms used.

FISCAL IMPACT

Departmental Costs

If the implementation concerns are resolved, the departmental costs associated with this bill are not expected to be significant.

Tax Revenue Estimate

The estimates below assume that this deduction would only benefit taxpayers who itemize deductions and assume only those type of expenses (but not the maximum) that qualify for the federal qualified child care credit expenses are allowed.

Revenue losses under the PITL are estimated as follows:

Effective on or after January 1, 1999 Assumed Enactment After June 30, 1998 (millions)		
1998-9	1999-0	2000-1
($10)	($105)	($110)

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

Tax Revenue Discussion

Revenue losses under the PITL would depend on the number of taxpayers who have children under the age of 18 with qualified child care expenses and the marginal tax rates of these filers.

Based on U.S. Census data, the average per family child care costs for 1993 is $74 per week. The average yearly child care cost for 1999 is projected to be $3,900 based on an average growth rate of 2%. Based on special programming of the department's personal income tax model, it is estimated that this itemized deduction would benefit approximately 240,000 filers for the 1999 tax year.

The estimate for the first fiscal year above includes only 10% of the 1999 tax year impact. This impact results from adjusted estimated tax and withholding payments.

PROPONENTS OF THE LEGISLATION

This bill is sponsored by the Association for Children for Enforcement of Support (ACES).

BOARD POSITION

Pending.